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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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25191	7590	12/02/2008		
BURR & BROWN				
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SYRACUSE, NY 13261-7068				
EXAMINER				
NASSER, ROBERT L				
ART UNIT		PAPER NUMBER		
3735				
MAIL DATE		DELIVERY MODE		
12/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/826,103

**Applicant(s)**

KARAM ET AL.

**Examiner**

ROBERT L. NASSER

**Art Unit**

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-11 and 13-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 6-11, 13-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6-8, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowie 5588440 in view of Ouellette 5938593. Cowie shows a device with a hand held probe 10 having an acquisition region, the curved tip, with three sensors on the tip, a temperature sensor, and sound sensor, and a moisture sensor. The sensors are connected to a processing unit comprised of a moisture monitor, a stethoscope, and a temperature monitor, where the signals from the 3 sensors are processed and used to diagnose the cutaneous surface (see column 3, lines 20-25. It does not also have the ambient humidity sensor. However, Ouellette teaches throughout that that when measuring skin moisture, the measurement should be compensated for humidity. Hence, it would have been obvious to modify Cowie to use a humidity sensor, so as to improve measurement accuracy. The examiner notes that since Cowie is a single device, one skilled in the art would look to place the humidity sensor the single device. It is unclear exactly what location would be chosen. However, there are a finite number of locations on the device and it is the examiner's position that it would have been obvious to try all of them, including on the underside of casing 20. Alternatively, the exact location, including the underside of casing 20 would have been a matter of design choice, and one skilled in the art would be motivated to

place the sensor as near the skin as possible, to get as close a picture of the environment the skin is experiencing as possible. Either way, a sensor on the underside of the casing 20 would be facing the acquisition region, as required by the claim. With respect to claim 6, the processing unit is electrically connected to the acquisition region and the acquisition region can be positioned in front of the cutaneous surface. With respect to claim 7, the examiner takes official notice that wireless connections, particularly, rf connections, between sensors and processors are well known in the medical field, to allow flexibility of use of the device, so the heavy processing equipment can remain stationary and the light measuring instrument may be moved. As such, it would have been obvious to modify Cowie to use wireless transmission, to increase the flexibility of use of the device. Claim 8 is rejected in that there is also a display (column 3, line 8). Claim 10 is rejected in that diagnosing the region involves classifying the skin into a category.

Claims 1, 6, 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka et al 6251070 in view of Ouellette. Khazaka shows a device for measuring cutaneous parameters with 2 sensors, a sebum sensor 12, which is a lipid level sensor 9 in that the higher the sebum levels, the higher the lipid levels, and a moisture sensor 18. It has a hand held device with the sensors in an acquisition region, and a processor unit to measure the skin parameters from the sensor output. Ouellette teaches that a moisture sensor is temperature and humidity dependent and should be compensated for the effects of temperature and humidity. As such, it would have been obvious to modify Khazaka to locate temperature and humidity sensors with the

moisture sensor to improve the accuracy of the readings. The examiner notes that since Khazaka is a single device, one skilled in the art would look to place the humidity sensor the single device. It is unclear exactly what location would be chosen. However, there are a finite number of locations on the device and it is the examiner's position that it would have been obvious to try all of them, including the bottom surface, removed from the other sensors. Alternatively, one skilled in the art would be motivated to place the sensor as near the skin as possible, to get as close a picture of the environment the skin is experiencing as possible. Hence, it would have been obvious to place the sensor on the bottom, removed from interference of the other two sensors. With respect to claim 6, the processing unit is electrically connected to the acquisition region and the acquisition region can be positioned in front of the cutaneous surface. Claim 8 is rejected in that there is also a display 26.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cowie in view of Ouellette, as applied to claims 1, 6, 8, and 10 above, further in view of Haddock et al 6712771. Haddock further teaches that a MEMS temperature sensor is a known temperature sensor. As such, it would have been obvious to modify Cowie to use a MEMS sensor, as it is merely the substitution of one known temperature sensor for another.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Ouellette, as applied to claims 1, 6, and 8 above, further in view Haddock et al 6712771. Haddock further teaches that a MEMS temperature sensor is a known temperature sensor. As such, it would have been obvious to modify the combination to

use a MEMS sensor, as it is merely the substitution of one known temperature sensor for another.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Ouellette, as applied to claims 1, 6, and 8 above, further in view Leveque 6944191. Khazaka is used to evaluate the topography of the skin, including scaling and wrinkles. Leveque teaches that such skin evaluation devices may be connected via the internet to a library of cosmetic products, to evaluate treatment products for the skin. As such, it would have been obvious to modify the combination to connect to a treatment library, to ensure that the patient receives the most up to date and accurate treatments. As to claim 9, been obvious to use a MEMS sensor. Claim 9 is rejected in that given that the system of Leveque connects to an internet site, it seems clear that the system is designed to link to multiple users. Hence, it would have been obvious that the combination would have would be multiple handheld units, to accommodate multiple users.

Claims 2, 3, 14, 15, and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazaka in view of Ouellette, as applied to claims 1, 6, and 8 above, further in view Rubinstenn et al 2003/0064356. The combination does not disclose the specific sensors. Rubinstenn in paragraph [0048] disclose that all of the sensors in these claims are known to be used at the same sitting to evaluate the skin condition of a user. Khazaka already combines two of the sensors into one handheld device. It is the examiner's position that it would have been obvious to modify the combination to include the ph sensor or the elasticity sensor or the image sensor which measures

texture or topography, to provide a more detail picture of the condition of the users skin. The examiner notes that the image sensor measures texture of the skin and is hence a print sensor, as defined in the claims.

Applicant's arguments filed 11/24/2008 have been fully considered but they have not found to be convincing.

The examiner recognizes that this case involves a close call. At present, it is the examiner's position that one skilled in the art would be motivated to place the ambient humidity sensors as close a possible to the other sensors, to give a clear picture of the environment experienced by the sensors.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert L. Nasser Jr/  
Primary Examiner, Art Unit 3735

RLN

November 24, 2008



